IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 15063 of 2007(R)

PETITIONER:

K.H. MOHAMMED ALI,
PROP.ELLICKAL ENTERPRISES,
KALAMASSERRY, KOCHI-33.

BY ADV. SRI.C.J.XAVIER,
SRI.NIDHI BALACHANDRAN.

RESPONDENTS:
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1. **THE TAHSILDAR (R.R.)**
   KANAYANNUR TALUK, ERNAKULAM.

2. **THE DISTRICT COLLECTOR,**
   ERNAKULAM.

3. **THE SALES TAX APPELLATE TRIBUNAL,**
   ADDL.BENCH, ERNAKULAM.

BY GOVT. PLEADER SRI. MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/06/2007,ALONG WITH W.P.(C). NO. 26057/2006,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.15063 of 2007

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Dated this the 26th day of June, 2007.

JUDGMENT

Prayer in the W.P. is only for direction to respondents to permit the petitioner to shift the plant and machinery to new industrial premises allotted to the petitioner without furnishing security for the tax arrears. I do not think petitioner is entitled to shift plant and machinery without clearing arrears of tax. Moreover, in the connected case W.P.(C) No.26057/2006 disposed of today this court has modified the penalty orders. So far as tax arrears is concerned, there will be direction to the officer to revise all the assessments in terms of appellate or revisional orders, if not already done, and recover the arrears. As and when arrears of tax and penalty including tax payable under interim orders if any issued by Tribunal or any appellate authority are paid, the petitioner should be granted permission to shift the plant and machinery. Besides payment of arrears of tax and penalty that have become final and the amount payable under conditional stay orders, it is for the officer to demand security for the balance disputed tax, interest or

penalty while granting permission to the petitioner to shift the plant and machinery.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms